

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUAN REYES and
CATHERINE REYES,

Defendants.

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No. 1:21-cv-05578

Dist. Judge Margo K. Brodie

Mag. Judge Peggy Kuo

DECLARATION OF KIMBERLY NGUYEN IN SUPPORT OF PLAINTIFF UNITED STATES' REPLY TO DEFENDANTS JUAN REYES AND CATHERINE REYES'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

I, Kimberly Nguyen, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a Revenue Agent at the United States Internal Revenue Service, 211 W. Wisconsin Ave., Milwaukee, Wisconsin.

2. Through my training and experience as a Revenue Agent, I am familiar with IRS recordkeeping procedure, including the IRS's methods of keeping files related to the assessment and collection of FBAR penalties.

3. I was assigned to examine, review, and make an initial determination on whether Juan Reyes and Catherine Reyes failed to file Form TD F 90-22.1, commonly referred to as an FBAR, for their joint bank account at Lloyds Bank ending in 250, and whether they should be assessed penalties for their failure to report. Part of this determination was to decide whether their failure to report was willful or non-willful.

4. As part of my FBAR examination, I developed an examination file, which includes, among other documents, copies of Form 1040 joint federal income tax returns for Juan Reyes and Catherine Reyes for years 2010, 2011, and 2012. Juan Reyes and Catherine Reyes

filed Form 1040 joint federal income tax returns for years 2010, 2011, and 2012, as well as amended Form 1040X joint federal income tax returns for the same years. True and correct Bates-stamped copies of the Form 1040 joint federal income tax returns for years 2010, 2011, and 2012, provided by the taxpayers to the IRS, which were provided to the U.S. Department of Justice-Tax Division in conjunction with this litigation, are attached hereto as **Exhibits A, B, and C**, respectively. These taxpayer-provided copies of returns are unsigned.

5. As a Revenue Agent, I am familiar with the Offshore Voluntary Disclosure Program (OVDP). The purpose of OVDP during the years at issue (2010-2012) was to bring taxpayers that had previously used undisclosed foreign financial accounts and assets to avoid or evade taxes into compliance with the United States tax laws and related laws.

6. Taxpayers participating in the OVDP during that time period were required to submit copies of their filed federal income tax returns, and any amended returns, for the tax years covered by the voluntary disclosure. The copies of the Form 1040 federal income tax returns for Juan Reyes and Catherine Reyes that are set forth in **Exhibits A, B, and C**, respectively, were provided by Juan Reyes and Catherine Reyes to the IRS as part of the OVDP process.

7. Juan Reyes and Catherine Reyes electronically filed their joint 2010, 2011, and 2012 income tax returns with the IRS. To determine whether the Reyeses' tax returns for years 2010, 2011, and 2012 were filed electronically (instead of paper filed), I accessed the IRS Integrated Data Retrieval System (IDRS) computer database, which stores and tracks taxpayer account information. Information from a taxpayer's return is entered into the IDRS, including from electronically-filed returns.

8. According to my review, the Form 1040 joint federal income tax returns for Juan Reyes and Catherine Reyes for tax years 2010, 2011, and 2012, with the information reflected by

Exhibits A, B, and C, respectively, were filed electronically. Electronically-filed returns do not contain a taxpayer's handwritten signature. In my experience as a Revenue Agent, I have observed that, routinely, taxpayers or their agents on their behalf will maintain an unsigned copy of the information submitted electronically to the IRS for their records, and those copies are routinely provided to the IRS in the OVDP program. This explains why the copies of the returns identified as **Exhibits A, B, and C** do not contain any handwritten signatures and why the IRS does not have the original Form 1040 federal income tax returns for Juan Reyes and Catherine Reyes for income tax years 2010, 2011, and 2012 with handwritten signatures.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed this 1st day of May, 2023, in Milwaukee, Wisconsin.

/s/ Kimberly Nguyen
KIMBERLY NGUYEN
IRS Revenue Agent
Internal Revenue Service

CERTIFICATE OF SERVICE

I certify that on May 2, 2023, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all registered CM/ECF participants.

/s/ Philip L. Bednar

PHILIP L. BEDNAR
Trial Attorney
Civil Trial Section, Northern Region